Montana Water Court PO Box 1389 Bozeman, MT 59771-1389 (406) 586-4364 1-800-624-3270 watercourt@mt.gov FILED
05/22/2023
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
41G-0398-R-2021
McElyea, Russ
29.00

IN THE WATER COURT OF THE STATE OF MONTANA UPPER MISSOURI DIVISION JEFFERSON RIVER BASIN (41G) PRELIMINARY DECREE

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CLAIMANTS: 105 Trails End Lane LLC; BFR Family Limited Partnership LLLP

Limited Farthership LLLF

OBJECTORS: 105 Trails End Lane LLC; BFR Family

Limited Partnership LLLP

COUNTEROBJECTOR: BFR Family Limited Partnership

LLLP

NOTICE OF INTENT TO APPEAR: BFR Family Limited

Partnership LLLP

CASE 41G-0398-R-2021

41G 30556-00 41G 30561-00 41G 30564-00 41G 30565-00 41G 30566-00 41G 197155-00 41G 197156-00

Split Claims: 41G 30159531

41G 30159532

ORDER AMENDING AND ADOPTING MASTER'S REPORT

Pursuant to Montana Code Annotated, Section 85-2-233(5), Case 41G-0398-R-2021 was assigned to Senior Water Master Madeleine Weisz. The Water Master filed a Report containing Findings of Fact and Conclusions of Law with the Clerk of Court. Copies of the Report were served on the parties on April 28, 2023. On May 8, 2023, BFR Family Limited Partnership LLLP filed an Objection to the Master's Report indicating a correction was needed.

BFR objects to South Willow Creek being removed as a source for split claim 41G 30159532. South Willow Creek and Camp Creek were both identified as sources on parent claim 41G 30566-00. Claim 41G 30566-00 was split between 105 Trails End LLC and BFR based on the parties' stipulation.

Trails End retained 0.95 cfs of the right under 41G 30566-00, which diverts Camp Creek water through the Allen Ditch. BFR retained 1.55 cfs of the right under split claim 41G 30159532, which diverts water from South Willow Creek and Camp Creek through the Carter Ditch and the Boyer Ditch. The South Willow Creek source erroneously fell off the abstract for claim 41G 30159532 when it was created. The abstract for claim 41G 30159532 should be corrected to identify both South Willow Creek and Camp Creek as sources.

The Court has reviewed the Water Master's Findings and Conclusions. Pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Court **ADOPTS** the Master's Report with the above referenced amendment.

Post Decree Abstracts are attached to this Order to confirm the correction has been made in the statewide database.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via Electronic Mail:

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ABSTRACT OF WATER RIGHT CLAIM

JEFFERSON RIVER

BASIN 41G

Water Right Number: 41G 30556-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: 105 TRAILS END LANE LLC

PO BOX 220

HARRISON, MT 59735 0220

Priority Date: FEBRUARY 27, 1906

Type of Historical Right: FILED

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR

STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND

HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF SOUTH WILLOW CREEK

Source Type: GROUNDWATER

Source Name: SPRING, UNNAMED TRIBUTARY OF SOUTH WILLOW CREEK

Source Type: GROUNDWATER

ALSO KNOWN AS SPRING GULCH SPRING

SPRING

Point of Diversion and Means of Diversion:

IDGovt LotQtr SecSecTwpRgeCounty1SWNESW272S2WMADISON

Source Name: SPRING, UNNAMED TRIBUTARY OF SOUTH WILLOW CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: FLOWING

N2SW 27 2S 2W MADISON

Source Name: UNNAMED TRIBUTARY OF SOUTH WILLOW CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

IDAcresGovt LotQtr SecSecTwpRgeCounty1N2SW272S2WMADISON

ABSTRACT OF WATER RIGHT CLAIM

JEFFERSON RIVER

BASIN 41G

Water Right Number: 41G 30561-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BFR FAMILY LIMITED PARTNERSHIP LLLP

PO BOX 456

ENNIS, MT 59729 0456

Priority Date: JULY 13, 1909

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FURROW/FLOOD

Flow Rate: 1.00 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT

TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 100.00

Source Name: SPRING, UNNAMED TRIBUTARY OF SOUTH WILLOW CREEK

Source Type: GROUNDWATER

ALSO KNOWN AS CRYSTAL SPRING

Point of Diversion and Means of Diversion:

IDGovt LotQtr SecSecTwpRgeCounty1NWSESW282S2WMADISON

Period of Diversion: MAY 15 TO OCTOBER 15

Diversion Means: DIKE

Period of Use: MAY 15 TO OCTOBER 15

<u>ID</u>		<u>Acres</u>	Govt Lot	<u> Otr Sec</u>	<u>Sec</u>	$\underline{\mathbf{Twp}}$	<u>Rge</u>	County
1		20.00		SESW	28	2S	2W	MADISON
2	_	80.00		W2SE	28	2\$	2W	MADISON
	Total:	100.00						

ABSTRACT OF WATER RIGHT CLAIM

JEFFERSON RIVER

BASIN 41G

Water Right Number: 41G 30564-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BFR FAMILY LIMITED PARTNERSHIP LLLP

PO BOX 456

ENNIS, MT 59729 0456

Priority Date: DECEMBER 31, 1902

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FURROW/FLOOD

Flow Rate: 282.74 GPM

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT

TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 128.00

Source Name: SOUTH WILLOW CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

IDGovt LotQtr SecSecTwpRgeCounty1SESESW282S2WMADISON

Period of Diversion: MAY 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: CARTER DITCH

2 SWSWSE 21 2S 2W MADISON

Period of Diversion: MAY 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BOYER DITCH

NWNWSE 28 2S 2W MADISON

Period of Diversion: MAY 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: HONSINGER DITCH

Period of Use: MAY 15 TO OCTOBER 15

<u>ID</u>	Acres Govt Lot	Qtr Sec	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	County
1	22.00	NWSE	28	2S	2W	MADISON
2	3.00	NWNESE	28	2S	2W	MADISON
3	5.00	NWSWSE	28	2S	2W	MADISON

4		65.00	W2NE	28	2S	2W	MADISON
5		8.00	SWSWSE	21	2S	2W	MADISON
6		20.00	E2NESW	21	2S	2W	MADISON
7		5.00	NESESW	21	2S	2W	MADISON
	Total:	128.00					

ABSTRACT OF WATER RIGHT CLAIM

JEFFERSON RIVER

BASIN 41G

Water Right Number: 41G 30565-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: BFR FAMILY LIMITED PARTNERSHIP LLLP

PO BOX 456

ENNIS, MT 59729 0456

Priority Date: DECEMBER 31, 1887

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FURROW/FLOOD

Flow Rate: 2.50 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT

TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 128.00

Source Name: SOUTH WILLOW CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

IDGovt LotQtr SecSecTwpRgeCounty1SESESW282S2WMADISON

Period of Diversion: MAY 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: CARTER DITCH

2 SWSWSE 21 2S 2W MADISON

Period of Diversion: MAY 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: BOYER DITCH

NWNWSE 28 2S 2W MADISON

Period of Diversion: MAY 15 TO OCTOBER 15

Diversion Means: HEADGATE

Ditch Name: HONSINGER DITCH

Period of Use: MAY 15 TO OCTOBER 15

<u>ID</u>	Acres Govt Lot	Qtr Sec	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	County
1	22.00	NWSE	28	2S	2W	MADISON
2	3.00	NWNESE	28	2S	2W	MADISON
3	5.00	NWSWSE	28	2S	2W	MADISON

4	65.00	W2NE	28	2S	2W	MADISON
5	8.00	SWSWSE	21	2S	2W	MADISON
6	20.00	E2NESW	21	2S	2W	MADISON
7	5.00	NESESW	21	2S	2W	MADISON
	Total: 128.00					

ABSTRACT OF WATER RIGHT CLAIM

JEFFERSON RIVER

BASIN 41G

Water Right Number: 41G 30566-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: 105 TRAILS END LANE LLC

PO BOX 220

HARRISON, MT 59735 0220

Priority Date: JULY 6, 1910

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FURROW/FLOOD

Flow Rate: 0.95 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT

TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 160.00

Source Name: CAMP CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

IDGovt LotQtr SecSecTwpRgeCounty1SWSWNE332S2WMADISON

Period of Diversion: MARCH 15 TO OCTOBER 30

Diversion Means: HEADGATE

Ditch Name: ALLEN DITCH

Period of Use: MARCH 15 TO OCTOBER 30

Place of Use:

<u>ID</u> **Govt Lot Otr Sec County Acres Sec Twp** Rge 100.00 SE 28 **2S** 2W **MADISON** 1 **MADISON** 2 2S 60.00 N2SW 27 2W

Total: 160.00

ABSTRACT OF WATER RIGHT CLAIM

JEFFERSON RIVER

BASIN 41G

Water Right Number: 41G 197155-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: 105 TRAILS END LANE LLC

PO BOX 220

HARRISON, MT 59735 0220

Priority Date: DECEMBER 31, 1875

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD
*Flow Rate: 1.25 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT

TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 219.00

Source Name: SOUTH WILLOW CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

IDGovt LotQtr SecSecTwpRgeCounty1NENENE63S2WMADISON

Period of Diversion: MARCH 15 TO OCTOBER 30

Diversion Means: HEADGATE

Ditch Name: NORWEGIAN DITCH

Period of Use: MARCH 15 TO OCTOBER 30

Place of Use:

<u>ID</u>	<u>Acres</u>	Govt Lot	<u> Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	County
1	8.00		S2S2SE	27	28	2W	MADISON
2	114.00		NE	34	2S	2W	MADISON
3	80.00		SE	34	2S	2W	MADISON
4	17.00		E2SW	34	2S	2W	MADISON

Total: 219.00

ABSTRACT OF WATER RIGHT CLAIM

JEFFERSON RIVER

BASIN 41G

Water Right Number: 41G 197156-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: 105 TRAILS END LANE LLC

PO BOX 220

HARRISON, MT 59735 0220

Priority Date: DECEMBER 31, 1865

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 390.00 GPM

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT

TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 219.00

Source Name: SOUTH WILLOW CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

IDGovt LotQtr SecSecTwpRgeCounty1NENENE63S2WMADISON

Period of Diversion: MARCH 15 TO OCTOBER 30

Diversion Means: HEADGATE

Ditch Name: NORWEGIAN DITCH

Period of Use: MARCH 15 TO OCTOBER 30

Place of Use:

<u>ID</u>	<u>Acres</u>	Govt Lot	<u> Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	County
1	8.00		S2S2SE	27	2S	2W	MADISON
2	114.00		NE	34	2S	2W	MADISON
3	80.00		SE	34	2S	2W	MADISON
4	17.00		E2SW	34	2S	2W	MADISON

Total: 219.00

ABSTRACT OF WATER RIGHT CLAIM

JEFFERSON RIVER

BASIN 41G

Water Right Number: 41G 30159531 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: BFR FAMILY LIMITED PARTNERSHIP LLLP

PO BOX 456

ENNIS, MT 59729 0456

Priority Date: FEBRUARY 27, 1906

Type of Historical Right: FILED

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS

OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY

TO SUSTAIN THIS PURPOSE.

Volume: THIS WATER RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED

FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER

SOURCE.

Source Name: UNNAMED TRIBUTARY OF SOUTH WILLOW CREEK

Source Type: GROUNDWATER

Source Name: SPRING, UNNAMED TRIBUTARY OF SOUTH WILLOW CREEK

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u> <u>Govt Lot</u> <u>Qtr Sec</u> <u>Sec</u> <u>Twp</u> <u>Rge</u> <u>County</u> 1 SWNESW 27 2S 2W MADISON

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Source Name: SPRING, UNNAMED TRIBUTARY OF SOUTH WILLOW CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: FLOWING

2 W2NE 28 2S 2W MADISON

Source Name: UNNAMED TRIBUTARY OF SOUTH WILLOW CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

IDAcresGovt LotQtr SecSecTwpRgeCounty1W2NE282S2WMADISON

ABSTRACT OF WATER RIGHT CLAIM

JEFFERSON RIVER

BASIN 41G

Water Right Number: 41G 30159532 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: BFR FAMILY LIMITED PARTNERSHIP LLLP

PO BOX 456

ENNIS, MT 59729 0456

Priority Date: JULY 6, 1910

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FURROW/FLOOD

Flow Rate: 1.55 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT

TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 4 - MODERATELY LOW

Maximum Acres: 260.00

Source Name: CAMP CREEK

Source Type: SURFACE WATER
Source Name: SOUTH WILLOW CREEK
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

IDGovt LotQtr SecSecTwpRgeCounty1SESESW282S2WMADISON

Source Name: CAMP CREEK

Period of Diversion: MARCH 15 TO OCTOBER 30

Diversion Means: HEADGATE

Ditch Name: CARTER DITCH

2 SWSWSE 21 2S 2W MADISON

Source Name: SOUTH WILLOW CREEK

Period of Diversion: MARCH 15 TO OCTOBER 30

Diversion Means: HEADGATE

Ditch Name: BOYER DITCH

WATER FROM CAMP CREEK IS CONVEYED TO SOUTH WILLOW CREEK WHICH IS

USED AS A NATURAL CARRIER TO POINTS OF DIVERSION NOS 1 AND 2.

Period of Use: MARCH 15 TO OCTOBER 30

<u>ID</u>	Acres Govt Lot	Qtr Sec	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	County
1	60.00	SE	28	2S	2W	MADISON
2	20.00	E2SWNE	28	2S	2W	MADISON

3		20.00	E2NWNE	28	2S	2W	MADISON
4		80.00	E2NE	21	2S	2W	MADISON
5		40.00	SENW	21	2S	2W	MADISON
6		20.00	E2E2SW	21	2S	2W	MADISON
7		20.00	W2W2SE	21	2S	2W	MADISON
	Total:	260.00					